

Governor's Committee for the Purchase of Commodities and Services from the Handicapped

**Minutes
December 8, 2004**

ATTENDANCE

Committee Members Present: Lee Dixon, Chair; Everett Sullivan; Donna Lipscomb; Brenda King; and Linda Maniak

Committee Members Absent: Scott Padon, Executive Secretary

WVARF Staff Present: Glenn McEndree; Craig Greening; Chris Miller; and Ken Kennedy

APPROVAL OF MINUTES

Chairman Dixon stated that they did not have any minutes of the previous meeting at this time.

ADMINISTRATIVE BUDGET REPORT

Scott Padon was not present and, therefore, no budget report was available.

REPORT OF THE CHAIR

Glenn McEndree provided an Executive Director Report to the Committee. He stated that a desk reviews had been completed. Letters are being mailed out advising Community Rehabilitation Programs of any deficiencies. Site visits will be scheduled soon.

Mr. McEndree has been visiting the CRP's so that he will have a better understanding of what they face. He has three scheduled for this month. He is also working on an assignment policy, which will be addressed later in the meeting. The budget will also be addressed later in the meeting.

Mr. McEndree indicated that they are working on a budget. The committee is to set the fee by the end of December so they can prepare the budget for the next year. Mr. McEndree distributed a preliminary budget for review by the committee in determining the fee.

Mr. Miller stated that they are predicting, based upon the information from year to date, that they will have deficit of \$89,501.00. He further stated that they are not starting the budget process until after January but wanted to see where they think they will be. He indicated that sales is the hardest thing to predict. The budget

gives several scenarios of where they will be based upon different fees. The budget does not take into consideration an increase in sales but they will have a better way of predicting that later in the year.

Ms. Lipscomb stated that the committee should be allowed to see the budget from last year that they approved and compare line item by line item. She stated that she is not prepared to vote on this today because she has not had an opportunity to review it until now. She needs to have an opportunity to review it prior to voting.

Mr. Sullivan stated that if they are losing money then they need an increase. Ms. Lipscomb stated that if they have had an increase in sales why has their budget gone up and what is the increased money being spent on. The committee has a duty to explore why they need more money if they expect increased sales. They are showing more sales now than ever and when the fee was 4.1% they were putting money in the bank that wasn't needed for operations. If the current fee is too low then they should come up with a figure in the middle rather than going back up to the 4.1%. It is odd that the projected budget comes back up to the 4.1% when just a few months ago that percentage created a surplus and the sales are predicted to be up next year.

Mr. Miller stated that there would be total increase in travel of over \$9,000.00 for executive committee members travel expenses and staff travel due to the site reviews. Also, there is no money budgeted in the current budget for the state use conference.

Ms. Lipscomb questioned the \$66,000 for Nicholas County. She wondered if the CNA was going to start doing billing for them. Mr. Miller stated that they were doing their own billing for soap and water but this was now going to be done by the CNA. Ms. Lipscomb stated that the amount was very large and questioned if they were going to hire another staff person to do that since the amount was so big. Mr. Miller stated that thus far it has not been a problem for them to do it with current staff. What would they do with that much money if they are not going to be required to hire any staff? She stated that without that money being added to the budget they would be right back at the 3.75% with no deficit. Mr. Miller stated that it is an increase in that line item but they would pay it back to Nicholas County so they take it back out in the money reflected in the funds going to CRP's. It just does not show up as a separate line item coming back out. She asked what they would do with Nicholas County and whether they would pay them less money on each contract now since they will not be doing this administrative work. They will not reduce the amounts on their contracts but will be required to pay the purchasing card transaction fees.

Mr. Greening stated that the CNA could no longer continue to function at the 3.75% due to the purchasing card fees. Ms. Lipscomb stated that this is the same rationale they told this committee before when they got the fee increase while at the same time they were putting money in the bank. The CNA agreed that this was represented to them previously.

Ms. Lipscomb questioned why the association's membership line item was less. Mr. McEndree stated that two CRP's had not renewed their membership. Ms. Lipscomb also questioned why the CNA is showing an increase in staff if they do not intend to hire anyone to do the billing for Nicholas County. Mr. McEndree stated that they have the same number of employees but they transferred one employee away from membership side of their budget and put them on the state use program side. Ms. Lipscomb stated that they now only have .28% of one employee's salary being paid for by the association membership. Mr. McEndree indicated that they made the change based upon the desk audit their employees did recently. Ms. Lipscomb stated that the changes in personnel as a result of the audit goes from \$87,000 to \$101,000. Mr. Miller stated that number was correct.

Ms. Lipscomb asked why the rent expense went up. Mr. Miller indicated that the percentage of rent coming from the state use program increased due to the desk audit done by their employees. Ms. Lipscomb asked if the outside audit done of the program supported the changes in percentages that the staff came up with. Mr. McEndree stated that the outside audit used the figures they represented to them.

Ms. Lipscomb again questioned why they needed an increase in the percentage when the sales are anticipated to be higher and they were banking surplus funds previously when they had the 4.1%. Mr. Miller stated that in addition to the changes discussed earlier, they also did not include the income from the investment portfolio for the upcoming budget because that is not an operation expense. They are taking that number out of the budget. Mr. McEndree stated that they planned to pull that out and keep it separate from the budget. He also indicated that they wanted to use the money in that account for things such as buying a new car or computer and those types of things. Ms. Lipscomb stated that those are operational expenses already accounted for in the budget and by pulling those investment income earnings out and putting it into a separate account then they will have to come back to the committee every time they want to use it when that would not need to occur if it were a part of the budget as it is now.

Mr. McEndree stated that if the investment account showed a loss then the committee would not like for them to come back next year with a request for a fee increase. Ms. Lipscomb stated that they have taken that income out to show a reduction in their budget in order to help support a fee increase. The budget does not support the fee increase because they took those monies out and they have not included increased revenues from sales when they anticipate the sales to go up considerably.

Ms. King stated that any time they start talking about budget issues she does not know whether the money is public funds or private funds. She said if the million dollars is public funds then they need to include it. She stated that an opinion should be sought from the Attorney General on behalf of the Department of Administration as to whether it is public funds

Ms. Lipscomb stated that she is having a hard time giving them an increase when state agencies will be paying more money on all contracts at a time when they are going through budget cuts and spending reductions. Mr. McEndree stated that the other side of that is that a decision could be made that it is not public funds. Ms. Lipscomb stated that then the pressure would be off the committee, as they would have not approval authority for how they spend the money and they would not be required to spend it only on the state use program. The committee would not have to worry about the money any more. Ms. Lipscomb asked Ms. King if her agency had sought an opinion since they are the agency who wants it. Ms. King stated that a decision was made by the Department of Administration Secretary and Attorney that the funds are public funds.

Ms. King stated that she has asked the Department of Administration formally to get an opinion from the Attorney General's office. This program is not under the Division of Rehabilitation. The committee is at a stale mate in regard to the issue of funds and whether the money belongs to WVARF the association or not. Ms. Lipscomb stated that the Department of Administration is waiting until the new administration comes in next month prior to any decisions being made. That is why she believes the vote on the fee increase is premature. Ms. Lipscomb moved to lay over this decision until next month. All of the committee member's terms have expired and no one knows who will be on the committee when the new administration comes in and they should be the ones making the decisions on the fee for the next year. There is no rush on the fee issue as the fee was set after the start of the New Year last year and it can be done later. The fee would not take affect until July any way so there should be no rush to vote on the fee until the committee members have an opportunity to review the documents provided to them today. The new administration deserves the right to make the fee decision as that fee will be in affect when the new board members are serving.

Mr. McEndree opposed the motion to lay over the vote because he is afraid it will continue to be layed over. Ms. King stated that if they had to vote today the vote would be different than next month because she does not feel comfortable making the decision today.

Mr. McEndree asked whether the fees were public funds. Ms. Lipscomb stated that this was the whole issue. Mr. Dixon stated that the 4.1% is fees for service paid to a private non-profit corporation and it should not be considered public funds. Ms. Lipscomb stated that the money is currently being utilized like grant funds and there is no contract with any state agency and WVARF as to what can be done with the money. WVARF did not go through a competitive bid process and no contract in place to set out what WVARF's duties are or what the funds can be used for.

Ms. King stated that the Division of Rehabilitation Services is very concerned about whether the funds received from the 4.1% remains public funds or becomes private funds. They have formally asked for an opinion on the issue and that is all they can do. Right now all they have is a verbal opinion from the Department of Administration's attorney that these funds are public funds and belongs to the State

of West Virginia. The Department of Administration is over this program. Mr. Dixon does not believe that the funds paid to WVARF are public funds. Ms. King stated that a conference was held with the Department of Administration and Rehabilitation Services and the Deputy Secretary/Assistant General Counsel advised everyone that the money was public funds. Mr. McEndree asked when that conference took place because it is his understanding that there may have been a change of opinion. Mr. McEndree stated that if they must get an Attorney General's opinion then it would hold their funds and their budget hostage for a long period of time.

Mr. Sullivan stated that the committee has an obligation to make this thing right. If you get an opinion they the committee will live by their decision. He asked whether the \$1 million investment account is state money or association money. Ms. King stated that this was the issue and the verbal decision they got from the Department of Administration. Mr. McEndree stated that he is not convinced that this is the Department of Administration's opinion now. Ms. King stated that he should get that opinion in writing for the committee if it has changed and the committee will be happy to move forward. Mr. Sullivan stated that they need to do their business and let these decisions be made without holding up the business of the committee. Ms. Lipscomb stated that what Ms. King is saying is that there is over \$1 million dollars sitting there and the association wants to charge state agencies more. Ms. King stated that she is only one member and will make her vote and other committee members can make their vote.

Mr. Dixon asked when the committee would be satisfied about the investment account, would it be after they used it to operate and there was nothing left. Ms. Lipscomb stated that as a committee member if a decision is made as to the ownership of the funds then it would take a whole lot of pressure off the committee and no approval would be required by the committee. Mr. Dixon stated that this is a private non-profit corporation and once it goes to them it is no longer public funds. Ms. Lipscomb again stated that there is no contract in place with WVARF as to what the money can be used for and thus far it has been administered by the committee like grant funds.

Ms. Lipscomb again made a motion to lay the vote over so that she could have an opportunity to review the materials provided to the committee today and to talk with the Department of Administration. Ms. Lipscomb indicated that Mr. McEndree stated that there has been a change of opinion as to whether this is public funds but she has not been told of that change of opinion. Her instructions were to reduce the fee and she has not been told otherwise.

Ms. King stated that the committee needs to either lay the vote over based upon Donna's motion or call for a vote. Mr. Dixon called for a vote.

MOTION #1

**Mr. Sullivan moved and Linda Maniak seconded to increase the fee to 4.1%.
Ms. King abstained and Ms. Lipscomb voted no. All others votes yes and the motion passed.**

CONTRACT COMPLAINTS

Mr. Kennedy distributed a complaint log. He indicated that there have been five complaints. Two were on rest areas, one on janitorial, one on bottled water, and one on stamps. Mr. Greening stated that one of the complaints was as a result of a change in supervision and they now have resolved it. Mr. Greening indicated that another one is a result of having a hard time recruiting people. He will go back up next month and work with them. Mr. Kennedy stated that the complaint on bottle water was due to not being able to deliver on time. Mr. Kennedy would like the committee to look at the situation between Green Acres and Prestera and just revisit that next month.

ADDITIONS TO WVARF 04

Mr. Kennedy directed the committee's attention to the list of requests to be added to the statewide contract. He stated that number one and two are on hold and at some point they need to be informed of the committee's decision. Numbers three through 7 are at the point when they can come back next month to get the committee's blessing on adding them to the contract. Number 8 and 9 is being worked on and they are working on costing for that one. Number 10 is a new request from Gateway Industries and their board is very interested in pursuing this. There is currently a can liner contract in place but the state is not happy with it so when it expires we could possibly add this to WVARF 04. The current statewide contract contains four types of liners. Mr. Kennedy would recommend that the committee allow them to explore this. Ms. Lipscomb stated that before they vote she wants to make sure the CRP is aware that the current statewide contract for lines may be put out to bid and she needs to be aware of that before she spends a lot of money.

MOTION #2

Mr. Sullivan moved to approve Gateway Industries exploring the addition of can liner to WVARF 04 and all voted in favor.

CONTRACT PRESENTATION

Mr. Greening went through the contract presentations for each agency and explained any changes and the reasoning for each. Mr. Sullivan stated that year end and year old we renew contracts for the same price but there is a cost of living increase and he questions why they can not give an increase on the contracts. Mr. Greening stated that the committee would have to stand up and say that is what they want because when he talks to the agencies they tell him that they have had decreases and can't afford any increase. All agencies have had a reduction in budget for the past three years. Mr. Greening stated that the committee would need to review the fair market price. Ms. Lipscomb stated that she has asked several times in the past how the federal government determines the fair market price. This committee just takes the CRP's word for how much their costs are and how much their overhead is and the committee has nothing to compare it to. She believes that

the federal government probably has some type of formula they could look at and mirror how they handle the fair market price. She is concerned about raising the wages without decreasing the numbers somewhere else because the agencies have had so much decrease in funding. As an example we approved a contract for the Grievance Board today and they have been reduces so much that they have gone from 15 Administrative Law Judges to 5. They could not afford an increase in wages without a decrease in overhead. Also as agencies consolidate into one-stop facilities they may run into a problem with the services being included in the lease contracts because it is more cost efficient and the CRP's would loose the contracts. She agreed that they need to pay the workers as much as they can. The committee has been told that the CRP's do not always pay the wages that the committee approves in the contracts. The committee has requested that the CRP's pay at a minimum the wage amount approved and this will already cut into the CRP's profit.

MOTION #3

Ms. Lipscomb moved to approve the contracts as presented. Mr. Sullivan seconded and all voted in favor and the motion passed.

In regard to contract renewals, the following contracts were approved:

Agency	Site	Annual Price	CRP
DOH	Cheyman Office	\$21,213.74	Goodwill Industries
General Services	State Office Building	\$110,940.17	Goodwill Industries
Worker's Compensation	310 West King Street, Martinsburg	\$1,956.96	Job Squad
Grievance Board	808 Greenbrier Avenue, Charleston	\$4,698.36	Goodwill Industries
Emergency Services	4510 Pennsylvania Avenue, Big Chimney	\$5,332.80	Goodwill Industries
Parkways Authority	374 George Street, Beckley	\$11,969.88	Lowest volume between two Raleigh County CRP's

OLD BUSINESS

Chris Miller stated that the accounts receivable does not have a report this month.

Mr. Dixon stated that since Mr. Padon was present today they would lay the Annual Planning follow up report to the next meeting.

Mr. Greening gave a report on the 1st quarter ratios. The report gives a comparison of where each CPR was for each fiscal year. The CPR's in bold are below the 75% required ratio. Clay County is improving and they are on top of it. They were behind because of some employees they inherited. Goodwill Industries of Kanawha Valley

is down just a couple percentage points and not sure why. They will request a plan of correction at their next association meeting. Precision Services is doing better. However, there is concern with Preston County because they have dropped and they are struggling right now. They have reported that they have had error in direct labor versus indirect labor. Their office manager also resigned quickly. They believe they will improve. Will need to review these again for the next quarter.

NEW BUSINESS

Mr. McEndree stated that they had an assignment policy that they would like to try on an interim basis for services only. He stated if an agency requests a particular CRP for the work then the CRP they requested would get the assignment. If the CRP initiates a lead then they would get the assignment. This would encourage them to drum up business. If a CRP initiates a lead but it conflicts with a pre-existing relationship the pre-existing relationship would get the assignment. The next situation would be to go to the matrix if none of the first three were not applicable. He recommended that they try to change the matrix to make it that all a CPR would need in order to get points for location is to have an office in the area, not a home office. You would then assign contracts under 25,000 on a rotating basis starting with the lowest volume CRP. If it is a contract over 25,000 it would be the same way but you would not count a contract under 25,000 when assigning a contract above 25,000.00.

Ms. Lipscomb stated that the committee should not vote on this proposed assignment policy without it first being presented to the association and get a vote of the entire association.

COMMITTEE MEMBER APPOINTMENTS

Ms. King stated that the Division of Rehabilitation and the Department of Administration could not give them names for potential committee members for their agencies until after the new administration. She recommended that the association provide the committee with names of individuals they would like to recommend.

ADJOURNMENT

MOTION #4

Mr. Sullivan moved to adjourn. Motion seconded by Ms. King. Motion passed.

| APPROVED: March 16, 2005